

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

OLIVIA Y., et al)	
)	
Plaintiffs)	
)	
v.)	CIVIL ACTION NO. 3:04-cv-251-HSO-ASH
)	
TATE REEVES, as Governor of the State of Mississippi, et al.)	
)	
Defendants)	

**DEFENDANTS' RESPONSE IN OPPOSITION TO
MOTION FOR APPOINTMENT OF GUARDIAN AD LITEM**

Pursuant to L.U. Civ. R. 7(b), Defendants, by and through counsel, files this Response in Opposition to Motion for Appointment of Guardian Ad Litem for the In-Custody Class in Their Best Interests [ECF No. 967] (“Motion to Appoint”).

1. This institutional reform case was filed in March of 2004. On March 11, 2005, the Court certified the “In-Custody Class” – “all children who are or will be in the legal and/or physical custody of [MDCPS]”. *See* ECF No. 84, p. 1.

2. The Court approved and entered the Mississippi Settlement Agreement and Reform Plan (“Consent Decree”) fully resolving all remaining claims in this case. *See* ECF No. 459. The Consent Decree has been modified twice, the most recent being the 2nd Modified Mississippi Settlement Agreement and Reform Plan (“2nd MSA”) entered by the Court on December 19, 2016.¹ *See* ECF No. 712. On June 24, 2021, the Court suspended the 2nd MSA to enable MDCPS to engage in a period of rebuilding. *See* ECF No. 917.

¹ While the 2nd MSA was entered by the Court on December 19, 2016, the effective date of the 2nd MSA was January 1, 2018.

3. On April 17, 2025, the Motion to Appoint was filed by Attorney Chad Shook, a private attorney who has no prior involvement or connection to this case, seeking to be appointed by the Court to serve as the guardian ad litem for the In-Custody Class.

4. Because the Consent Decree was a final judgment resolving all claims, the interests of the minor parties have been determined and an appointment of a guardian ad litem is not necessary.

5. In addition, this Court has also previously held that the named class representatives were adequately represented through next friends and that the class members' interests were adequately protected throughout the settlement process.

6. This Court already has a view into the impacts of the 2nd MSA through the work of the court-appointed monitor and because each child has an appointed guardian ad litem in the youth court who is already in a position to protect the child's best interests.

7. The Motion to Appoint should be denied because Rule 17(c) is a procedural vehicle that would have properly been used prior to entry of the Consent Decree in this case, not seventeen years after the fact. Even still, the interests of the In-Custody Class members were adequately protected during the pendency of the litigation and throughout the settlement process as indicated by the Court's approval of the class and the settlement agreement. Also, each minor class member has an appointed guardian ad litem in the youth courts to protect their best interests – even those which may be impacted by the 2nd MSA.

8. In support of this Response, Defendants rely on their "Memorandum in Opposition to Motion for Appointment of Guardian ad Litem," which is being filed contemporaneously with this Response.

WHEREFORE, PREMISES CONSIDERED, Defendants request that this Court deny the Motion to Appoint. Defendants requests any other and further relief this Court deems just and proper under the circumstances.

This the 1st day of May, 2025.

Respectfully submitted,

TATE REEVES, as Governor of the State of Mississippi, ANDREA SANDERS, as Commissioner, Mississippi Department of Child Protection Services, and KIMBERLY WHEATON, as Deputy Commissioner of Child Welfare, Mississippi Department of Child Protection Services

By: /s/ *Clint Pentecost*
CLINT PENTECOST

OF COUNSEL:

William C. (Clint) Pentecost (MSB #99841)
Jennifer E. Salvo (MSB #101208)
BAKER DONELSON BEARMAN CALDWELL & BERKOWITZ, PC
One Eastover Center
100 Vision Drive, Suite 400
Jackson, MS 39211
Telephone: (601) 351-2400
Facsimile: (601) 351-2424
cpentecost@bakerdonelson.com

Douglas T. Miracle (MSB #9648)
Assistant Attorney General
OFFICE OF THE MISSISSIPPI ATTORNEY GENERAL
P. O. Box 220
Jackson, MS 39205

Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that I have this day electronically filed the foregoing *Response* with the Clerk of the Court using the CM/ECF system, which sent notification of such filing to counsel of record.

This 1st day of May, 2025.

/s/ Clint Pentecost
CLINT PENTECOST